

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

In re request for leave to file
by PETER J. MALLEY

ORDER
05-MC-0015 (NGG)

X

GARAUFIS, United States District Judge:

Plaintiff is a frequent and vexatious litigant in the Second Circuit and the United States District Courts for the Southern and Eastern Districts. See discussion in In re request for leave to file by Peter J. Malley, No. 05-MC-0015 (NGG), slip op. at 1-2 (E.D.N.Y. Jan. 14, 2005). In an effort to control plaintiff's abusive filings in this Court, plaintiff was warned that if he continued to file vexatious submissions, he would be sanctioned. Id., slip op. at 2-3. The Court's warning did not deter plaintiff from filing multiple, frivolous submissions, and by order dated October 12, 2005, this Court directed plaintiff to show cause why the Court should not impose a \$2,500.00 sanction against him. Id., slip op. at 2-3 (E.D.N.Y. Oct. 12, 2005) (citing Fed. R. Civ. P. 11(b)(1); Freeman v. Bianco, No. 02 Civ. 7525 (GEL), 2003 WL 179777, at *7 (S.D.N.Y. Jan. 4, 2003)). In a submission dated October 25, 2005, plaintiff sets forth his arguments as to why the Court should not issue a sanction against him.

The Court finds that plaintiff's arguments are without merit. The sanction is constitutional, well-within the Court's authority under the Federal Rules of Civil Procedure, and appropriate in light of plaintiff's conduct. Therefore, the Clerk of Court is directed (1) to impose a \$2,500.00 sanction upon plaintiff and (2) not to accept any further submissions from plaintiff (except for a notice of appeal from this Order) until such sanction is paid to the Clerk of Court.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of any appeal.

Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/s/
NICHOLAS G. GARAUFIS
United States District Judge

Dated: November 15, 2005
Brooklyn, New York